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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,885	06/04/2001	Jesse L. Calloway	2770/1	5132
36829	7590	12/07/2004	EXAMINER	
SCHWARTZ LAW FIRM, P.C. 6100 FAIRVIEW ROAD SUITE 530 CHARLOTTE, NC 28210			LASTRA, DANIEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/873,885

**Applicant(s)**CALLOWAY, JESSE L. **Examiner**

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

1. Claims 1-23 have been examined. Application 09/873,885 has a filing date 06/04/2001.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 9-20 and 22-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Ng (U.S. 6,405,175).

As per claim 1, Ng teaches:

An electronic system for rewarding participants posting entries on an Internet Web site, said system comprising:

(a) a Web page comprising participant entries adapted for being accessed and viewed by visitors of the Web site (see column 3, lines 29-40);

(b) means for ranking the entries based on preference criteria determined by said system (see column 9, lines 19-30; column 16, lines 22-30);

and

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(c) means for determining which participants are eligible for a reward based on their entry ranking relative to other entries posted on the Web site (see column 16, lines 22-30).

As per claim 2, Ng teaches:

An electronic system according to claim 1, wherein the participant entry comprises a text submission (see column 16, lines 22-30; column 3, lines 60-65).

As per claim 3, Ng teaches:

An electronic system according to claim 1, wherein the participant entry comprises a photograph (see column 10, lines 33-39).

As per claim 4, Ng teaches:

An electronic system according to claim 1, wherein the participant entry comprises a combination of text and a photograph (see column 3, lines 60-65).

As per claim 5, Ng teaches:

An electronic system according to claim 1, wherein the reward comprises a cash payout (see column 9, lines 19-30).

As per claim 6, Ng teaches:

An electronic system according to claim 1, wherein the reward comprises a prize item (see column 9, lines 19-30).

As per claim 7, Ng teaches:

An electronic system for rewarding participants posting entries on an Internet

(a) a Web page comprising participant entries adapted for being accessed and viewed by visitors of the Web site;

(b) means for ranking the entries based on preference criteria determined by said system, said preference criteria comprising entry usage over a fixed period; and

(c) means for determining which participants are eligible for a reward based on their entry ranking relative to other entries posted on the Web site. The same rejection applied to claim 1 is applied to claim 7.

As per claim 9, Ng teaches:

An electronic system according to claim 7, but fails to teach and comprising a sample entry screen on the web site including a listing of both sample entries and actual participant entries. The same rejection applied to claim 8 is applied to claim 9.

As per claim 10, Ng teaches:

An electronic system for rewarding participants posting entries on an Internet Web site, said system comprising:

(a) a Web page comprising participant entries adapted for being accessed and viewed by visitors of the Web site;

(b) means for ranking the entries based on preference criteria determined by said system, said preference criteria comprising entry usage over a fixed period; and

(c) means for determining which participants rank in the top 100 for entry usage during the fixed period, whereby those participants ranking in the top 100 are eligible for a reward based on their entry ranking relative to other entries posted on the Web site. The same rejection applied to claim 1 is applied to claim 10. The Ng system

have a finite amount of prizes or awards to grant, therefore, Ng system needs to select a finite number of participants, such as the top 10, or top 50 or 100, that the Ng system would be able to honor the prizes and awards earned by participants using the Ng system.

As per claim 11, Ng teaches:

A method for rewarding participants posting entries on an Internet Web site, said method comprising the steps of

- (a) providing a Web page comprising participant entries adapted for being accessed and viewed by visitors of the Web site;
- (b) ranking the entries based on predetermined preference criteria; and
- (c) rewarding certain participants based on their entry ranking relative to other entries posted on the Web site. The same rejection applied to claim 1 is applied to claim 11.

As per claim 12, Ng teaches:

A method according to claim 11, but fails to teach and comprising collecting a posting payment from participants posting entries on the Web site. The same rejection applied to claim 8 is applied to claim 12.

As per claim 13, Ng teaches:

A method according to claim 12, wherein the step of ranking the entries comprises ranking the entries based on entry usage over a fixed period (see Ng column 16, lines 22-30).

As per claim 14, Ng teaches:

A method according to claim 13, and comprising displaying the usage for each entry at the Web site (see Ng column 3, lines 30-40).

As per claim 15, Ng teaches:

A method according to claim 13, and comprising grouping the entries into subject matter categories (see Ng column 14, lines 33-51).

As per claim 16, Ng teaches:

A method according to claim 15, and comprising displaying the usage for each category of entries at the Web site (see column 14, lines 32-51).

As per claim 17, Ng teaches:

A method according to claim 13, and comprising making those participants with entries ranking in the top 100 for usage eligible for receiving a reward (see Ng column 16, lines 22-35).

As per claim 18, Ng teaches:

A method according to claim 17, and comprising allocating a percentage of the posting payment to a payout fund used for rewarding those participants eligible for receiving a reward during a given period (see Ng column 16, lines 22-30).

As per claim 19, Ng teaches:

A method according to claim 18, wherein the step of rewarding participants comprises rewarding certain ones of those participants with entries ranking in the top 100 for usage with a sum certain cash payout from the payout fund until the payout fund is emptied. The same rejection applied to claim 17 is applied to claim 19.

As per claim 20, Ng teaches:

A method according to claim 19, and comprising automatically carrying forward to a succeeding period those participants ranking in the top 100 for usage during a present period and not receiving a cash payout. The same rejection applied to claim 17 is applied to claim 20.

As per claim 22, Ng teaches:

A method according to claim 13, and comprising posting the entry on a sample entry screen to increase overall usage (see Ng column 16, lines 22-30).

As per claim 23, Ng teaches:

A method for rewarding participants posting entries on an Internet Web site, said method comprising the steps of:

- (a) collecting a posting payment from participants;
- (b) posting participant entries on a Web page adapted for being accessed and viewed by visitors of the Web site;
- (c) ranking the entries based on predetermined preference criteria, the preference criteria comprising entry usage over a fixed period;
- (d) making certain ones of the participants eligible for receiving a cash payout based on a level of their entry usage during the fixed period;
- (e) allocating a percentage of the posting payment to a payout fund used for rewarding those participants eligible for receiving the payout;
- (f) distributing the cash payout to eligible participants until the payout fund for the fixed period is emptied; and.



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(g) for those participants eligible for receiving the payout but not receiving the payout due to insufficiency of the payout fund, automatically carrying those participants forward to a succeeding period. The same rejection applied to claim 19 is applied to claim 23.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ng (U.S. 6,405,175) in view of Buck et al (U.S. 6,078,866).

As per claim 8, Ng teaches:

An electronic system according to claim 7, but fails to teach comprising a multiplier available for purchase by the participant to increase effective usage of the entry during the fixed period. However, Buck teaches a system where "subscribers pay a monetary amount of their own choosing as a subscription fee to list a site with the listing service for a defined subscription period. The higher the amount paid for a given subscription period in relation to other listers, the higher the site's ranking on the service's search reports. Subscriber can monitor the ranking of their listings in relation to others, and can modify their rankings by raising or lowering their subscription fees, through a subscription monitoring interface provided with the listing server (see column

4, lines 14-20). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the system of Ng to include the multiplier available for purchase by the participant to increase effective usage of the entry during the fixed period, as taught by Buck.

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art at the time the application was made, to know that Ng system participants would pay a higher fee in comparison to other participants to increase their listing ranking, as taught Buck. Participants would pay a higher fee in comparison to other participants because this fee would increase the participants' probability of winning prizes or awards.

As per claim 21, Ng teaches:

A method according to claim 13, but fails to teach and comprising purchasing a multiplier to increase the overall usage of an entry. The same rejection applied to claim 8 is applied to claim 21.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra  
November 25, 2004

R. Daniel  
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Primary Examiner  
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